

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

259A0400

## SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB196** - 2/13/97

Introduced by: Senators Lawler, Aker, Drake, Dunn (Rebecca), Flowers, Frederick, Hainje, Halverson, Hunhoff, Hutmacher, Johnson (William), Kloucek, Lange, Reedy, Rounds, Staggars, Symens, and Vitter and Representatives Hunt, Belatti, Chicoine, Crisp, DeMersseman, Duenwald, Fiegen, Fitzgerald, Gleason, Hassard, Jaspers, Kazmerzak, Koetzle, Koskan, Kredit, Lucas, Madden, Matthews, McNenny, Monroe, Moore, Pederson (Gordon), Putnam, Rost, Schrempp, Smidt, Sokolow, Van Gerpen, Waltman, Weber, Wetz, and Wick

1 FOR AN ACT ENTITLED, An Act to provide for civil enforcement of statutes against assisted  
2 suicide.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Any licensed health care professional who administers, prescribes, or dispenses  
5 medications or procedures to relieve another person's pain or discomfort, even if the medication  
6 or procedure may hasten or increase the risk of death, does not violate § 22-16-37 unless the  
7 medications or procedures are knowingly administered, prescribed, or dispensed with a purpose  
8 to cause death. Any licensed health care professional who withholds or withdraws a life-  
9 sustaining procedure, in compliance with chapter 34-12D or in accordance with reasonable  
10 medical practice, does not violate § 22-16-37.

11 Section 2. A cause of action for injunctive relief may be maintained against any person who  
12 is reasonably believed to be about to violate or who is in the course of violating § 22-16-37 by

1 any person who is:

- 2 (1) The spouse, parent, child, sibling, legally appointed guardian, or conservator of the  
3 person who would commit suicide;
- 4 (2) Entitled to inherit under the laws of intestate succession from the person who would  
5 commit suicide or the beneficiary under a life insurance policy of the person who  
6 would commit suicide;
- 7 (3) A health care provider of the person who would commit suicide;
- 8 (4) Any public official with appropriate jurisdiction to prosecute or enforce the laws of  
9 this state.

10 Section 3. Any person given standing by subdivision (1) or (2) of section 2 of this Act or the  
11 person who would have committed suicide, in the case of an attempt, may maintain a cause of  
12 action against any person who violates or attempts to violate § 22-16-37 for compensatory  
13 damages and punitive damages. An action under this section may be brought whether or not the  
14 plaintiff had prior knowledge of the violation or attempt.

15 Section 4. Reasonable attorney's fees shall be awarded to the prevailing plaintiff in any civil  
16 action brought pursuant to section 2 or 3 of this Act.

17 Section 5. Any court shall notify the appropriate licensing board in any case in which a  
18 licensed health care professional:

- 19 (1) Is convicted of a violation of § 22-16-37;
- 20 (2) Has been cited for contempt of court for violating an injunction issued under section  
21 2 of this Act; or
- 22 (3) Has been subject to an assessment of damages under section 3 of this Act.

23 Section 6. Any professional licensing board authorized pursuant to Title 36 may, subject to  
24 the procedures set out in Title 36, suspend or revoke the license of any licensed health care  
25 professional who:

- 1       (1)    Is convicted of a violation of § 22-16-37;
- 2       (2)    Has been cited for contempt of court for violating an injunction issued under section
- 3               2 of this Act; or
- 4       (3)    Has been subject to an assessment of damages under section 3 of this Act.

5       Section 7. For the purposes of this Act, the term, licensed health care professional, means

6   any physician, surgeon, podiatrist, osteopath, physician assistant, nurse, dentist, or pharmacist

7   licensed pursuant to Title 36.

1    **BILL HISTORY**

2    1/29/97 First read in Senate and referred to Judiciary. S.J. 217

3    2/3/97 Senate Re-referred to Health and Human Services. S.J. 293

4    2/10/97 Scheduled for Committee hearing on this date.

5    2/12/97 Scheduled for Committee hearing on this date.

6    2/12/97 Health and Human Services Do Pass Amended, AYES 6, NAYS 0. S.J. 404

7    2/12/97 Health and Human Services Place on Consent Calendar. S.J. 404